

EXHIBIT A

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17 **UNITED STATES DISTRICT COURT**
18 **FOR THE DISTRICT OF NEVADA**

19 PETER DELVECCHIA, individually and as next friend of A.D., a Minor, } **Case No: 2:19-CV-01322-KJD-NJK**
20 vs. }
21 FRONTIER AIRLINES, INC., }
22 SCOTT WARREN, CHELSIE BRIGHT, }
23 ANNA BOND, AMANDA NICKEL, }
24 REX SHUPE and SHAWN MULLIN, }
25 Defendants. }
26 _____
27 _____
28 _____

[PROPOSED]
AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL

29 For their Amended Complaint against Defendants, FRONTIER AIRLINES, INC.
30 (“Frontier”), SCOTT WARREN (“Warren”), CHELSIE BRIGHT (“Bright”), ANNA
31 BOND (“Bond”), AMANDA NICKEL (“Nickel”), REX SHUPE (“Shupe”) and SHAWN
32 MULLIN (“Mullin”), Plaintiffs, PETER DELVECCHIA and A. D. (a minor suing by and
33 through his next friend, Peter DelVecchia), allege the following:

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Jurisdiction

1 This Court has subject matter jurisdiction over this civil action pursuant to 28 U.S.C.
2 §1331 because it arises under a statute of the United States, specifically 42 U.S.C. §1981,
3 which forbids racial discrimination against any person in the “making, performance,
4 modification and termination of contracts, and the enjoyment of all benefits, privileges,
5 terms, and conditions of the contractual relationship.”
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7 Plaintiffs further invoke this Court’s diversity jurisdiction pursuant to 28 U.S.C.
8 §1332, and/or its supplemental jurisdiction pursuant to 28 U.S.C. §1337(a), over all state
9 law claims also set forth herein, as the matter in controversy exceeds the sum or value of
10 \$75,000 exclusive of interest and costs and is between citizens of different states, and the
11 state law claims derive from the same nucleus of operative facts and are part of the same
12 case or controversy that gives rise to the federally-based claims and causes of action.
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14 This Court has both special and general personal jurisdiction over Frontier because
15 Frontier operates an airline that makes daily scheduled flights into and out of McCarran
16 International Airport in this District, employs hundreds of employees within this District,
17 routinely advertises its services to the citizens of Nevada through a variety of media, owns
18 or leases property within Nevada, has sued and been sued in Nevada courts without
19 contesting personal jurisdiction, and maintains offices and a Registered Agent within
20 Nevada. Moreover, the claims set forth herein all arise out of a scheduled flight operated by
21 Frontier from Raleigh-Durham International Airport in North Carolina to McCarran
22 International Airport in Nevada, on which both Plaintiffs were passengers after contracting
23 for carriage to Nevada with Frontier.
24

25 This Court has both special and general personal jurisdiction over the individual
26 Defendants because, upon information and belief, all of them reside in, or are based by
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1 Frontier in, Nevada, and because the actions complained of herein were undertaken at least
2 partially within Nevada.

3 Venue

4 Venue is proper in this District pursuant to 28 U.S.C. §1391, subsections (b)(1),
5 (b)(2), and (c)(2) because the individual Defendants reside in, or are based by Frontier in,
6 Nevada, because Frontier is subject to this Court's personal jurisdiction and is deemed by
7 Section 1391(c)(2) to reside in any judicial district in which it is subject to the Court's
8 personal jurisdiction with respect to this civil action, and because a substantial part of the
9 events or omissions giving rise to the claims occurred in this District, at the McCarran
10 International Airport in Las Vegas, Nevada and *en route* thereto over land contained in this
11 District.

12 The Parties

13 1. Plaintiff Peter DelVecchia ("Peter") is an individual citizen of Hillsborough,
14 North Carolina. He is a widower and a single parent. At the time of the events described
15 herein, Peter was 55 years old. His race is Caucasian.

16 2. Plaintiff A. D. ("A. D.") is also an individual citizen of Hillsborough, North
17 Carolina. He is the adopted son of Peter, and has lived with Peter and Peter's late wife for
18 most of his life. At the time of the events described herein, A. D. was 12 years old. His race
19 is African-American.

20 3. Frontier is a Colorado corporation that has its principal place of business in
21 Denver, Colorado. Frontier operates a low-cost airline that, according to its website,
22 conducts scheduled passenger flights between several cities in the United States, as well as
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1 to and from the countries of Canada, Mexico, Dominican Republic and Jamaica. *See*,
2 <https://flights.flyfrontier.com/en/sitemap/flights-from-country/page-1>.¹

3 4. Defendant Warren is a male individual who was, at the time of the events
4 described herein, employed as a flight attendant by Frontier. He worked as a flight attendant
5 on the flight that is the subject of this Complaint. He identified himself to Plaintiffs only as
6 “Kevin,” refusing to provide his surname to them. Upon information and belief, he told the
7 law enforcement officials that he and other members of the flight crew summoned to meet
8 the flight that he is a resident of Las Vegas, Nevada.

10 5. Defendant Bright is a female individual who was, at the time of the events
11 described herein, employed as a flight attendant by Frontier. She worked as a flight attendant
12 on the flight that is the subject of this Complaint. Upon information and belief, she told the
13 law enforcement officials that were summoned to meet the flight that she is based by Frontier
14 in Las Vegas, Nevada. Upon information and belief, she is a resident of Salt Lake City, Utah.

16 6. Defendant Bond is a female individual who was, at the time of the events
17 described herein, employed as a flight attendant by Frontier. She worked as a flight attendant
18 on the flight that is the subject of this Complaint. Upon information and belief, she told the
19 law enforcement officials that were summoned to meet the flight that she is a resident of Las
20 Vegas, Nevada.

22 7. Defendant Nickel is a female individual who was, at the time of the events
23 described herein, employed as a flight attendant by Frontier. She worked as a flight attendant
24 on the flight that is the subject of this Complaint. Upon information and belief, she told the
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28 ¹ Frontier’s website also lists Puerto Rico as a “country” that the airline flies to and from. The
Commonwealth of Puerto Rico has been a territory of the United States since the Treaty of Paris came into
effect on April 11, 1899.

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1 law enforcement officials that were summoned to meet the flight that she is a resident of Las
2 Vegas, Nevada.

3 8. Defendant Shupe is a male individual who was, at the time of the events
4 described herein, employed as a pilot by Frontier. He worked as the Captain on the flight
5 that is the subject of this Complaint. Upon information and belief, he is based by Frontier in
6 Las Vegas, Nevada. Upon information and belief, he is a resident of Salt Lake City, Utah.

7 9. Defendant Mullin is a male individual who was, at the time of the events
8 described herein, employed as a pilot by Frontier. He worked as the First Officer on the flight
9 that is the subject of this Complaint. Upon information and belief, he is a resident of, and/or
10 is based by Frontier in, Las Vegas, Nevada.

11 13 **Particulars of the Claim**

14 10. On March 28, 2019, Plaintiffs were passengers aboard Frontier's Flight 2067
15 from Raleigh-Durham International Airport in North Carolina to McCarran International
16 Airport in Las Vegas, Nevada. Peter had purchased the tickets for both Plaintiffs from
17 Frontier, for the purpose of taking A. D. on a recreational vehicle and hiking trip in Death
18 Valley National Park during A.D.'s spring break from school. Plaintiffs were seated in
19 adjacent seats on the aircraft. A.D. removed his shoes, and proceeded to fall asleep.

20 11. During the nearly 4.5-hour flight, Peter fell asleep with his head resting on
21 the back of the seat in the row ahead of his. He was abruptly awakened when Warren
22 punched him violently at the base of his skull and on the back of his neck. The blow was, or
23 24 blows were, so forceful as to cause a concussion.

25 12. Warren then made false accusations against Peter including accusations that
26 Peter was engaging in illegal human trafficking and illegal sexual assault. The aforesaid
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1 physical violence and accusations were based on Warren's belief that Peter, who is white,
2 should not be traveling with A. D., who is black. Upon information and belief, Warren had
3 discussed such beliefs previously with Bond, Bright, Nickel and Shupe, and all of them
4 concurred in his belief that Peter traveling with A.D. and showing affection toward A.D.
5 constituted an improper "situation" that made them all "feel uncomfortable."

6 13. Warren then forced A. D. to leave his seat and the company of his father,
7 without permitting him to put his shoes back on, and took him against his will to the rear of
8 the aircraft, where he forced him to sit in a seat in the back row of the aircraft barefoot and
9 refused to allow him to return to his father for the remainder of the flight. A. D. asked
10 repeatedly to be allowed to return to the seat beside his father, but Warren, acting in concert
11 with, and with the knowledge and approval of, Bright, Bond, Nickel, Shupe and Mullin,
12 would not allow A. D. to leave the seat in which Warren had placed him. In fact, Bright,
13 Bond, Nickel, Shupe and Mullin, acting at all times in the course of their employment by
14 Frontier, arranged for a male Frontier employee or other "able-bodied passenger" to occupy
15 the aisle seat between A. D. and the aisle of the aircraft, effectively blocking his ability to
16 enter the aisle for the duration of the flight. Warren also blocked Peter from walking back to
17 speak with A.D., and laughed mockingly at his inability to reach his son. After the flight
18 landed, Defendants continued to detain A. D. and would not allow him to return to his father,
19 despite requests by A. D. and Peter. Defendants ensured that A.D. was the last passenger to
20 exit the aircraft, after they had ensured that Peter had been placed into police custody and
21 escorted from the aircraft. They did not return A.D.'s shoes to him until after he exited the
22 aircraft, forcing him to walk off the aircraft barefoot.
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25 14. Defendants' detention of A. D. in the last row of the aircraft, barefoot and
26 without his father, was intentional, or, in the alternative, was done with reckless disregard
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1 for Plaintiffs' rights. In addition, it was not consented to by A. D. or Peter, but was instead
2 against their wills, was unlawful, and was without any legitimate basis in aircraft safety or
3 any other purpose recognized in the Federal Aviation Regulations. It amounted to false
4 imprisonment of A. D. for several hours.

5 15. Upon information and belief, Shupe, the Captain on the flight, and Mullin,
6 the First Officer on the flight, also participated in the unlawful removal of A. D. from his
7 father and his unlawful detention in the rear of the aircraft, by suggesting, authorizing and
8 arranging for those actions. At all times, Shupe and Mullin were acting within the scope of
9 their employment with Frontier, and Frontier's management sanctioned their conduct.

10 16. While he and the other Frontier employees were in the course of detaining A.
11 D., Warren intentionally and/or recklessly sexually assaulted A. D. without A. D.'s or Peter's
12 consent in an offensive manner, by placing his hand over A. D.'s body in the close vicinity
13 of A. D.'s genital area, causing A. D. (and later, Peter) to suffer great fear, anxiety, mental
14 anguish and embarrassment which has continued beyond the date of the occurrence.

15 17. Defendants collaboratively decided that their false accusations needed to be
16 relayed to law enforcement officials in Las Vegas, including the Las Vegas Metropolitan
17 Police Department ("LVMPD") and the Federal Bureau of Investigation ("FBI"). As a
18 group, Defendants had no basis on which to suggest that Peter was engaging in human
19 trafficking or unlawful sexual activities other than their shared belief that Peter, a white adult
20 man, should not be traveling in the company of A. D., a black male child, because it made
21 them "feel uncomfortable." They refused to acknowledge that Peter and A. D. are father and
22 son, despite being told so by both Peter and A. D. Shupe and/or Mullin, with the assistance
23 of other employees of Frontier, arranged for representatives of the LVMPD and the FBI to
24 meet the flight at its arrival gate at McCarran Airport.
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1 18. As Peter was deplaning, Warren said to him in a loud voice and mocking
2 tone, within the earshot of several other passengers who were also deplaning at the time, to
3 “Go on outside, the FBI is waiting for your ass.” That comment was meant to suggest, and
4 did falsely suggest, that Peter had committed a federal crime onboard the flight and that A.D.
5 had been either a willing or unwilling participant in such a crime. Warren had previously
6 yelled on the crowded plane, also within earshot of other passengers, that Peter had touched
7 his son inappropriately, to which Peter had responded that he (Peter) had been asleep and
8 could not have done so. Warren had responded, in a voice loud enough for other passengers
9 to hear, “Well we’re going to have to let the police sort that out.” That comment, together
10 with Warren’s physical separation of Peter from A.D., strongly suggested to the rest of the
11 passengers in the cabin that Peter had committed a despicable crime in which A.D. had been
12 a participant. Warren also laughed mockingly at Peter, also in the plain view and earshot of
13 other passengers, causing distress to Peter during an already highly stressful situation caused
14 by Defendants.

17 19. All of the actions by the individual Defendants described herein were
18 conducted by them while they were under the control of Frontier and in the scope of their
19 employment by Frontier, and Frontier’s managerial staff has sanctioned and ratified their
20 actions. Frontier is liable for the acts of its employees under the doctrine of *respondeat
superior*.

23 20. Defendants’ actions described herein amounted to willful and wanton and
24 malicious conduct sufficient to impose punitive damages on all Defendants, jointly and
25 severally.

27 21. As the result of all Defendants’ actions, Plaintiffs suffered serious physical
28 and mental injuries including, but not limited to, a concussion, other violations of the person,

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1 invasions of their privacy, mental anguish and anxiety, extreme emotional distress, cognitive
2 loss, and damage to their reputations. All of those were foreseeable consequences of
3 Defendants' actions.

4 **COUNT I: COMPENSATORY AND PUNITIVE DAMAGES
5 AND ATTORNEYS' FEES PURSUANT TO 42 U.S.C. §1981**

6 22. Plaintiffs repeat, reallege and incorporate by reference each and every
7 allegation contained in Paragraphs 1 through 21 of this Amended Complaint as though such
8 allegations were fully set forth herein.

9 23. Plaintiffs had the right under 42 U.S.C. §1981 to be free from discrimination
10 based on their races in the “making, performance, modification and termination of contracts,
11 and the enjoyment of all benefits, privileges, terms, and conditions of the contractual
12 relationship,” including their contractual relationship with Frontier as passengers aboard its
13 Flight 2067 on March 28, 2019.

15 24. The individual Defendants and Frontier acted out of racial animus in
16 concluding that Plaintiffs should not be travelling together, in concluding that their joint
17 travel and father-son expressions of affection must be evidence of human trafficking or
18 sexual deviance, in striking Peter and detaining and assaulting A. D., in making false
19 accusations against them, and in denying Plaintiffs their federally-protected right to enjoy
20 the benefits and privileges of their contractual relationship with Frontier during the flight.
21 Their discriminatory and humiliating treatment of Plaintiffs was utterly unacceptable in
22 civilized society and was an affront to the values that society expects in the equal treatment
23 of all persons, especially those who travel aboard common carriers that are licensed by the
24 United States government and that enjoy the privileges of operating commercial flights in
25 federal airspace.

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1 25. Defendants are liable to Plaintiffs, jointly and severally, for compensatory
2 damages under 42 U.S.C. §1981 for their intentional acts and omissions that caused Plaintiffs
3 to sustain and endure severe emotional distress, serious physical injuries, shock,
4 embarrassment and utter humiliation.

5 26. Defendants are also liable to Plaintiffs, jointly and severally, for punitive
6 damages under 42 U.S.C. §1981 because their conduct was based on malice and/or reckless
7 indifference to Plaintiffs' legal rights.

9 27. Defendants' conduct as described hereinabove has caused Plaintiffs to incur
10 attorneys' fees and costs, and will continue to cause them to incur such fees and costs until
11 this action has been resolved, and Plaintiffs are entitled to recover those attorneys' fees and
12 costs in accordance with applicable federal laws and rules of procedure following a judgment
13 on the merits.

15 **WHEREFORE**, Plaintiffs demand judgment against Defendants, jointly and
16 severally, for compensatory damages in an amount to be determined by the jury at trial, for
17 punitive damages in an amount to be determined by the jury at trial, and for their attorneys'
18 fees, costs, pre-judgment and post-judgment interest and such other and further relief as the
19 Court shall deem just and proper.

21 **COUNT II: COMPENSATORY AND PUNITIVE DAMAGES**
22 **PURSUANT TO STATE LAW FOR INTENTIONAL**
23 **INFILCTION OF EMOTIONAL DISTRESS**

25 28. Plaintiffs repeat, reallege and incorporate by reference each and every
26 allegation contained in Paragraphs 1 through 21 of this Amended Complaint as though such
27 allegations were fully set forth herein.

29. The aforesaid acts and omissions of Defendants were outrageous and utterly
30 intolerable in civilized society, were malicious and/or were conducted with reckless

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indifference to the likelihood that emotional distress would result, and were intentional toward Plaintiffs and intended to cause them emotional distress. They therefore constitute the tort of intentional infliction of emotional distress.

30. Defendants are liable to Plaintiffs, jointly and severally, for compensatory damages under applicable state laws for their intentional acts and omissions that caused Plaintiffs to sustain and endure severe emotional distress.

31. Defendants are also liable to Plaintiffs, jointly and severally, for punitive damages under applicable state laws because their conduct was based on malice and/or reckless indifference to Plaintiffs' legal rights.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, for compensatory damages in an amount to be determined by the jury at trial, for punitive damages in an amount to be determined by the jury at trial, and for their costs, pre-judgment and post-judgment interest and such other and further relief as the Court shall deem just and proper.

**COUNT III: COMPENSATORY AND PUNITIVE DAMAGES
PURSUANT TO STATE LAW FOR NEGLIGENT
INFILCTION OF EMOTIONAL DISTRESS**

32. Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in Paragraphs 1 through 21 of this Amended Complaint as though such allegations were fully set forth herein.

33. The aforesaid acts and omissions of Defendants were outrageous and utterly intolerable in civilized society, were malicious and/or were conducted with reckless indifference to the likelihood that emotional distress would result, and were negligent toward Plaintiffs and foreseeably caused them emotional distress. They therefore constitute the tort of negligent infliction of emotional distress.

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1 34. Defendants are liable to Plaintiffs, jointly and severally, for compensatory
2 damages under applicable state laws for their negligent acts and omissions that caused
3 Plaintiffs to sustain and endure severe emotional distress.

4 35. Defendants are also liable to Plaintiffs, jointly and severally, for punitive
5 damages under applicable state laws because their conduct was based on malice and/or
6 reckless indifference to Plaintiffs' legal rights.
7

8 **WHEREFORE**, Plaintiffs demand judgment against Defendants, jointly and
9 severally, for compensatory damages in an amount to be determined by the jury at trial, for
10 punitive damages in an amount to be determined by the jury at trial, and for their costs, pre-
11 judgment and post-judgment interest and such other and further relief as the Court shall deem
12 just and proper.
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15 **COUNT IV: COMPENSATORY AND PUNITIVE DAMAGES**
16 **PURSUANT TO STATE LAW FOR FALSE**
17 **IMPRISONMENT/UNLAWFUL DETENTION**

18 36. Plaintiffs repeat, reallege and incorporate by reference each and every
19 allegation contained in Paragraphs 1 through 21 of this Amended Complaint as though such
20 allegations were fully set forth herein.

21 37. The aforesaid acts of Defendants constituted false imprisonment and/or
22 unlawful detention of A. D., which caused mental anguish to both A. D. and Peter.

23 38. Defendants are liable to Plaintiffs, jointly and severally, for compensatory
24 damages under applicable state laws for their intentional acts and omissions that falsely
25 imprisoned and unlawfully detained A. D., and that caused Plaintiffs to sustain and endure
26 severe emotional distress.
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1 39. Defendants are also liable to Plaintiffs, jointly and severally, for punitive
2 damages under applicable state laws because their conduct was based on malice and/or
3 reckless indifference to Plaintiffs' legal rights.

4 **WHEREFORE**, Plaintiffs demand judgment against Defendants, jointly and
5 severally, for compensatory damages in an amount to be determined by the jury at trial, for
6 punitive damages in an amount to be determined by the jury at trial, and for their costs, pre-
7 judgment and post-judgment interest and such other and further relief as the Court shall deem
8 just and proper.

10 **COUNT V: COMPENSATORY AND PUNITIVE DAMAGES**
11 **PURSUANT TO STATE LAW FOR BATTERY AND SEXUAL ASSAULT**

12 40. Plaintiffs repeat, reallege and incorporate by reference each and every
13 allegation contained in Paragraphs 1 through 21 of this Amended Complaint as though such
14 allegations were fully set forth herein.

15 41. The aforesaid acts of Warren constituted the tort of battery upon Peter and
16 sexual assault upon A. D., were malicious and/or were conducted with reckless indifference
17 to the likelihood that physical injury and emotional distress would result, and were
18 intentional toward Plaintiffs and intended to cause them physical injury and severe emotional
19 distress. They were done while Warren was under the control of Frontier and within the
20 scope of Warren's employment with Frontier. Frontier hired Warren and trained him for his
21 duties. Frontier is therefore liable for the acts of Warren under the doctrine of *respondeat*
22 *superior*.

25 42. Defendants Warren and Frontier are liable to Plaintiffs, jointly and severally,
26 for compensatory damages under applicable state laws for their intentional acts and
27 omissions that caused Plaintiffs to sustain and endure physical injuries and severe emotional
28 distress.

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1 43. Defendants Warren and Frontier are also liable to Plaintiffs, jointly and
2 severally, for punitive damages under applicable state laws because their conduct was based
3 on malice and/or reckless indifference to Plaintiffs' legal rights.

4 **WHEREFORE**, Plaintiffs demand judgment against Defendants Warren and
5 Frontier, jointly and severally, for compensatory damages in an amount to be determined by
6 the jury at trial, for punitive damages in an amount to be determined by the jury at trial, and
7 for their costs, pre-judgment and post-judgment interest and such other and further relief as
8 the Court shall deem just and proper.

9

10 **COUNT VI: COMPENSATORY AND PUNITIVE DAMAGES**
11 **PURSUANT TO STATE LAW FOR DEFAMATION AND**
12 **FALSE LIGHT INVASION OF PRIVACY**

13 44. Plaintiffs repeat, reallege and incorporate by reference each and every
14 allegation contained in Paragraphs 1 through 21 of this Amended Complaint as though such
15 allegations were fully set forth herein.

16 45. The aforesaid acts of Defendant Warren resulted in the unauthorized
17 publication to third parties (other passengers of the flight) of false and defamatory
18 accusations that Peter had committed various crimes and unlawful sexually deviant acts, and
19 that A.D. was a participant in, or victim of, sexual deviance, human trafficking and/or sex
20 trafficking, with the result that they caused presumed injury to Peter's and A.D.'s reputations
21 and constituted defamation *per se*. They also invaded Peter's and A.D.'s privacy and cast
22 them in a false light, constituting the tort of false light invasion of privacy. In addition, they
23 were malicious and/or were conducted with reckless indifference to the likelihood that
24 emotional distress and damage to reputation would result, and were intentional toward Peter
25 and A.D. and intended to cause them severe emotional distress and damage to reputation.
26 They were done while Warren was under the control of Frontier and within the scope of
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1 Warren's employment with Frontier. Frontier hired Warren and trained him for his duties.

2 Frontier is therefore liable for the acts of Warren under the doctrine of *respondeat superior*.

3 46. Defendants Warren and Frontier are liable, jointly and severally, to Peter and
4 A.D. for compensatory damages under applicable state laws for their intentional acts and
5 omissions that caused Peter and A.D. to sustain and endure severe emotional distress,
6 damage to their reputation, and invasion of their privacy.

7 47. Defendants Warren and Frontier are also liable to Peter, jointly and severally,
8 for punitive damages under applicable state laws because their conduct was based on malice
9 and/or reckless indifference to Peter's legal rights.

10 11 **WHEREFORE**, Plaintiffs demand judgment against Defendants Warren and
12 Frontier, jointly and severally, for compensatory damages in an amount to be determined by
13 the jury at trial, for punitive damages in an amount to be determined by the jury at trial, and
14 for their costs, pre-judgment and post-judgment interest and such other and further relief as
15 the Court shall deem just and proper.

16 17 **PLAINTIFFS DEMAND TRIAL BY JURY.**

18 19 DATED this 20th day of November, 2019.

20 21 PARK AVENUE LAW LLC

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Attorneys for Plaintiffs